

ant first has a reasonable opportunity to discover the violation.

(3) Any action under this section shall be tried to the court without a jury.

(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which materials governed by those sections may be reviewed.

(5) An amount equal to any award against the United States under this section shall be reimbursed by the department or agency concerned to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, fund, or account that is available for the enforcement of any Federal law) that is available for the operating expenses of the department or agency concerned.

(c) **ADMINISTRATIVE DISCIPLINE.**—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(d) **EXCLUSIVE REMEDY.**—Any action against the United States under this subsection shall be the exclusive remedy against the United States for any claims within the purview of this section.

(e) **STAY OF PROCEEDINGS.**—(1) Upon the motion of the United States, the court shall stay any action commenced under this section if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or the prosecution of a related criminal case. Such a stay shall toll the limitations periods of paragraph (2) of subsection (b).

(2) In this subsection, the terms “related criminal case” and “related investigation” mean an actual prosecution or investigation in progress at the time at which the request for the stay or any subsequent motion to lift the stay is made. In determining whether an investigation or a criminal case is related to an action commenced under this section, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the 2 proceedings, without requiring that any one or more factors be identical.

(3) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid dis-

closing any matter that may adversely affect a related investigation or a related criminal case. If the Government makes such an ex parte submission, the plaintiff shall be given an opportunity to make a submission to the court, not ex parte, and the court may, in its discretion, request further information from either party.

(Added Pub. L. 107–56, title II, § 223(c)(1), Oct. 26, 2001, 115 Stat. 294.)

#### TERMINATION OF SECTION

*For termination of section by section 224 of Pub. L. 107–56, see Termination Date of 2001 Amendment note set out under section 2510 of this title.*

#### REFERENCES IN TEXT

Sections 106, 305, and 405 of the Foreign Intelligence Surveillance Act of 1978, referred to in subsecs. (a) and (b)(4), are classified to sections 1806, 1825, and 1845, respectively, of Title 50, War and National Defense.

The Federal Tort Claims Act, referred to in subsec. (b)(1), is classified generally to section 1346(b) and chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

### CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

Sec.

2721.	Prohibition on release and use of certain personal information from State motor vehicle records.
2722.	Additional unlawful acts.
2723.	Penalties.
2724.	Civil action.
2725.	Definitions.

#### AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(a)(3), Oct. 11, 1996, 110 Stat. 3506, added analysis.

### § 2721. Prohibition on release and use of certain personal information from State motor vehicle records

(a) **IN GENERAL.**—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): *Provided*, That subsection (a)(2) shall not in any way affect the use of organ donation information on an individual’s driver’s license or affect the administration of organ donation initiatives in the States.

(b) **PERMISSIBLE USES.**—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor ve-

hicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

(c) **RESALE OR REDISCLOSURE.**—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

(d) **WAIVER PROCEDURES.**—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

(e) **PROHIBITION ON CONDITIONS.**—No State may condition or burden in any way the issuance of an individual's motor vehicle record as defined in 18 U.S.C. 2725(1) to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

(Added Pub. L. 103–322, title XXX, §300002(a), Sept. 13, 1994, 108 Stat. 2099; amended Pub. L. 104–287, §1, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 104–294, title VI, §604(b)(46), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 106–69, title III, §350(c), (d), Oct. 9, 1999, 113 Stat. 1025; Pub. L. 106–346, §101(a) [title III, §309(c)–(e)], Oct. 23, 2000, 114 Stat. 1356, 1356A–24.)

#### REFERENCES IN TEXT

The Anti Car Theft Act of 1992, referred to in subsec. (b), is Pub. L. 102–519, Oct. 25, 1992, 106 Stat. 3384. For complete classification of titles I and IV of the Act to the Code, see Tables.

The Automobile Information Disclosure Act, referred to in subsec. (b), is Pub. L. 85-506, July 7, 1958, 72 Stat. 325, as amended, which is classified generally to chapter 28 (§1231 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1231 of Title 15 and Tables.

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

#### AMENDMENTS

2000—Subsec. (a). Pub. L. 106-346, §101(a) [title III, §309(c)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.”

Subsec. (b). Pub. L. 106-346, §101(a) [title III, §309(d)], inserted “, subject to subsection (a)(2),” before “may be disclosed” in introductory provisions.

Subsec. (e). Pub. L. 106-346, §101(a) [title III, §309(e)], added subsec. (e).

1999—Subsec. (b)(11). Pub. L. 106-69, §350(c), substituted “if the State has obtained the express consent of the person to whom such personal information pertains” for “if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator’s permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures”.

Subsec. (b)(12). Pub. L. 106-69, §350(d), substituted “if the State has obtained the express consent of the person to whom such personal information pertains” for “if the motor vehicle department has implemented methods and procedures to ensure that—

“(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

“(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them”.

1996—Subsec. (b). Pub. L. 104-287, §1(1), in introductory provisions, substituted “titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-331 of title 49” for “the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act”.

Subsec. (b)(9). Pub. L. 104-287, §1(2), substituted “chapter 313 of title 49” for “the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.)”.

Subsec. (c). Pub. L. 104-294 substituted “covered by this chapter” for “covered by this title”.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-69, title III, §350(g)(2), Oct. 9, 1999, 113 Stat. 1025, provided that: “Subsections (b), (c), and (d) [amending this section] shall be effective on June 1, 2000, excluding the States of Arkansas, Montana, Nevada, North Dakota, Oregon, and Texas that shall be in compliance with subsections (b), (c), and (d) within 90 days of the next convening of the State legislature and

excluding the States of Wisconsin, South Carolina, and Oklahoma that shall be in compliance within 90 days following the day of issuance of a final decision on *Reno vs. Condon* by the United States Supreme Court if the State legislature is in session, or within 90 days of the next convening of the State legislature following the issuance of such final decision if the State legislature is not in session.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

#### EFFECTIVE DATE

Section 300003 of Pub. L. 103-322 provided that: “The amendments made by section 300002 [enacting this chapter] shall become effective on the date that is 3 years after the date of enactment of this Act [Sept. 13, 1994]. After the effective date, if a State has implemented a procedure under section 2721(b)(11) and (12) of title 18, United States Code, as added by section 2902 [probably should be section “300002(a)”], for prohibiting disclosures or uses of personal information, and the procedure otherwise meets the requirements of subsection (b)(11) and (12), the State shall be in compliance with subsection (b)(11) and (12) even if the procedure is not available to individuals until they renew their license, title, registration or identification card, so long as the State provides some other procedure for individuals to contact the State on their own initiative to prohibit such uses or disclosures. Prior to the effective date, personal information covered by the amendment made by section 300002 may be released consistent with State law or practice.”

#### SHORT TITLE

Section 300001 of title XXX of Pub. L. 103-322 provided that: “This title [enacting this chapter] may be cited as the ‘Driver’s Privacy Protection Act of 1994’.”

#### RELATIONSHIP TO OTHER LAW

The Consumer Credit Reporting Reform Act of 1996 [see Short Title note set out under section 1601 of Title 15, Commerce and Trade] not to be considered to supersede or otherwise affect this section with respect to motor vehicle records for surveys, marketing, or solicitations, see section 2421 of Pub. L. 104-208, set out as a note under section 1681a of Title 15.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2722 of this title.

### § 2722. Additional unlawful acts

(a) **PROCUREMENT FOR UNLAWFUL PURPOSE.**—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

(b) **FALSE REPRESENTATION.**—It shall be unlawful for any person to make false representation to obtain any personal information from an individual’s motor vehicle record.

(Added Pub. L. 103-322, title XXX, §300002(a), Sept. 13, 1994, 108 Stat. 2101.)

### § 2723. Penalties

(a) **CRIMINAL FINE.**—A person who knowingly violates this chapter shall be fined under this title.

(b) **VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.**—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by